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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/725,586

12/03/2003

Pil-Ho Yu

1349.1337

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21171 7590 08/21/2008
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EXAMINER

LEE, JOHN W

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

08/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Attachment to Advisory Action

The applicant argues that there are no such supporting rationales to combine the prior arts using Supreme Court of *KSR v. Teleflex* (*KSR v. Teleflex*, 550 U.S. ____ (2007)). According to the rulings of the Supreme Court of *KSR v. Teleflex* (*KSR v. Teleflex*, 550 U.S. ____ (2007)) that teaches that the so called teaching, suggesting and motivation test (TSM) is one of a number of valid rationales which could be used to determine obviousness, but not the only rationale that may be relied upon to support a conclusion of obviousness. The examiner stated in the previous advisor action that the Suzuki's invention and Wittig's invention can be combined in De Hann's invention to provide a more reliable method and apparatus for noise measurement (De Hann (col. 1, lines 49-50) which is a simple substitution of one known element for another to obtain predictable results or is using known technique to improve similar devices (methods or products) in the same way. So, the examiner argues that the combination can be valid according to the rulings of the Supreme Court of *KSR v. Teleflex* (*KSR v. Teleflex*, 550 U.S. ____ (2007)) that teaches that the so called teaching, suggesting and motivation test (TSM) is one of a number of valid rationales which could be used to determine obviousness, but not the only rationale that may be relied upon to support a conclusion of obviousness. It is not necessary the motivation or rationale have to be supported by evidence in the record. Since Suzuki, Witting and De Hann's invention is all related with image signals using blocks, "a simple substitution of one known element for another to obtain predictable results or is using known technique to improve similar devices

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(methods or products) in the same way” can be the rationale to support a conclusion of obviousness based on MPEP 2143, which discloses the exemplary rationales.

The examiner believes that the rejection of the claims disclosed in the final office action was valid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN Wahnkyo LEE whose telephone number is (571)272-9554. The examiner can normally be reached on Monday - Friday (Alt.) 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/John Wahnkyo Lee/
Examiner, Art Unit 2624

/Jingge Wu/
Supervisory Patent Examiner, Art Unit 2624